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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 4th December, 1998:—

I

BILL No. XXVI OF 1998

A Bill to provide for the compulsory determination of paternity of a child of an unmarried mother through DNA test so as to give legitimacy to such an offspring and to resolve the menace of growing population of illegitimate children in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title, extent and Commencement.

1. (*1*) This Act may be called the Children Born of Unmarried Mothers (Determination of Paternity through D.N.A. Test) Act, 1998.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(*b*) "designated authority" means an authority constituted by the appropriate Government under section 3 of this Act;

(*c*) "prescribed" means prescribed by rules made under this Act.

Appropriate Government to designate authorities.

3. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall, as soon as may be but not later than six months after the commencement of this Act, designate an authority at the village, block, district and city headquarters, by notification in the Official Gazette, for carrying out the purposes of this Act.

Functions of the designated authority.

4. The functions of every designated authority shall be,—

(*a*) to register every unmarried woman who has conceived alongwith the name and other particulars of the man who, according to such unmarried woman, is the father of her expected child in such manner as may be prescribed;

(*b*) to arrange deoxyribonucleic acid or DNA test at an appropriate laboratory for determination of the paternity of the child conceived by an unmarried woman;

(*c*) to issue paternity certificate in respect of a child born of an unmarried woman in such manner as may be prescribed;

(*d*) such other functions as may be assigned by the appropriate Government from time to time.

Registration of unmarried woman having conceived a child and determination of paternity of the child.

5. (*1*) Notwithstanding anything contained in any other law for the time being in force, every unmarried woman having conceived, shall register her name alongwith other particulars required for the purpose with the name and other particulars of the man who fathered the child with the appropriate designated authority.

(*2*) If the man supposed to be the father of the expected child of the unmarried woman referred to in sub-section *(1)* denies having fathered the child, the designated authority shall get DNA test of the foetus and the man done in order to determine the paternity of the child.

(*3*) If the DNA test proves that the man had fathered the child, the designated authority shall declare and certify the paternity of the child so as to give legitimacy to his birth.

(*4*) After having the paternity of the child been proved though DNA test, the man shall give his name as the father of the child and shoulder such other responsibilities in respect of the child and his mother as may be prescribed.

(*5*) Notwithstanding anything in this Act, the unmarried woman having conceived a child shall be at liberty to medically terminate her foetus under the provisions of the Medical Termination of Pregnancy Act, 1971.

Oath of secrecy in certain cases.

6. The designated authority and all the persons concerned with the DNA test under this Act shall be under an oath of secrecy.

Penalty.

7. (*1*) If the DNA test conducted under sub-section *(2)* of section 5 fails to fix the paternity on the man alleged, the unmarried woman claiming that man to be the father of her child shall be liable to a fine which may extend to one thousand rupees.

(*2*) Whoever contravenes the provisions of section 6 shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

With our society opening up to western culture, especially with the advent of cinema, television including cable TV, young boys and girls have developed increasing tendency to promiscuous behaviour and sexual activity, irrespective of marriage, resulting in the growing problem of unmarried motherhood. It inevitably results in miserable life not only for such mothers but to a much greater degree a life tarnished with indignity and even sub-human life for the off-shoot children.

Very often even when the fatherhood of the child is clear, the persons concern refuse to own their responsibility, leaving the children to suffer immense indignity in society and serious problems beyond comprehension.

It is, therefore, necessary to determine the fatherhood of such children, especially when the unmarried mother identifies the father of the child. A presumption should be created in favour of such mothers, under the law of evidence and the alleged father of the off-shoot of such promiscuous behaviour should be bound by law to be subjected to a DNA test to determine the fatherhood of such child.

This would not only go a long way in resolving the untold problems and indignity that goes with such children but would serve a large numer of such unmarried mothers from committing suicides and for avoiding the indignity to such motherhood. This would also ensure dignified human existence and development of such children into dignified citizens of tomorrow.

Hence this Bill.

VEENA VERMA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the designation of authorities for carrying out the purposes of the Bill which includes registration, DNA testings, abortions etc. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is not possible at this stage to give an exact amount of expenditure which is likely to be involved for carrying out the purposes of the Act, However, it is estimated that an amount to the tune of rupees two hundred crores may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees one thousand crores may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Governments to make rules for carrying out the purposes of the Bill. The rules will relate to matters of procedure and administrative details only. The delegation of legislative power is, therefore, of normal character.

II

BILL NO. XXVIII OF 1998

A Bill *to provide for protection against exploitation and for the welfare of indigent writers and artists and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indigent Writers and Artists (Protection and Welfare) Act, 1998.

(*2*) it extends to the whole of India.

(*3*) it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means the Central Government, in the case of Union Territories and the State Government, in the case of territory of any State of the Union;

(*b*) "Authority" means an authority established under section 3;

(*c*) "Fund" means the Fund established under section *5(1)*;

(*d*) "indigent artists" means and includes both performing and non performing aged and indigent artists, who are not in a position to earn their livelihood and lead a life with dignity, and are not members of any Union to protect themselves against exploitation;

(*e*) "prescribed" means prescribed by rules made under this Act; and

(*f*) "writers" means aged and indigent writers so registered under section **4**.

Establishment of the Indigent Writers and Artists Protection and Welfare Authority.

3. The appropriate Government shall establish, in every disrict of the country, an Authority to function under the direction and supervision of State or National Human Rights Commission to be known as the Indigent Writers and Artists Protection and Welfare Authority.

Duties of the Authority.

4. It shall be the duty of every Authority constituted under section 3—

(*i*) to register all indigent writers and artists in its respective jurisdiction;

(*ii*) to work out plans and formulate schemes for the protection against exploitation and welfare of all indigent artists;

(*iii*) to help them out from penury and to carry on and promote their respective art; and

(*iv*) to submit periodical reports, as may be prescribed, to the State or the National Human Rights Commission, as the case may be.

Establishment of the Fund.

5. (*1*) There shall be established a fund in every State and Union Territory to be known as the Indigent Artists Protection and Welfare Fund, by the appropriate authority, to carry out the purposes of this act, as enumerated in section 4 and other matters connected therewith and incidental thereto.

(2) The Central and the State Government shall contribute to the Fund in such manner and proportions, as may be prescribed.

Utilisation of the Fund.

6. The Fund established under section **5** shall be utilised for—

(*i*) imparting free education to the dependent children of indigent writers and artists;

(*ii*) giving monthly pension at such rate, as may be prescribed, to indigent writers and artists;

(*iii*) providing free medical facilities to the indigent writers, artists and their dependents;

(*iv*) providing proper housing facilities to the indigent writers, artists and their dependents;

(*v*) providing proper health and other insurance cover to the indigent writers, artists and their dependents; and

(*vi*) such other material assistance to the indigent writers and artists and their dependents, as may be prescribed, to enable them to develop and carry on their pursuits in art, literature or other works.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Notwithstanding the generality of sub-section *(1)*, the Central Government shall by rules prescribe—

(*a*) the conditions governing registration under section **4** *(i)*; and

(*b*) the guidelines for formulating plans and schemes under section **4** *(ii)*.

STATEMENT OF OBJECTS AND REASONS

While the country is celebrating the 2nd birth centenary year (200th birth anniversary) of Mirza Ghalib of international fame, nothing is left of his abode in Delhi, which could be maintained as a monument.

It has been observed that renowned writers, poets and artists in their old age very often live in penury. Press is over-flowing with stories of sufferings and misery of the aged and indigent writers and artists.

In this context mention may be made of Shri Mohanlal Bhanwaria, a recipient of Sahitya Akademy Award who was forced to sell out the medals he received only to realise their intrinsic metal cost, but for sake of sustenance.

While we are planning to celebrate the birth centenary of the renowned poet Surya Kant Tripathi Nirala, his family in his native village Gadhkola, Unnao are suffering pangs of penury. The Revolutionary Poet of Kanpur "Sheel" died without due medical care. Rajesh Sharma, a poet belonging to Lucknow, fed up with service problems, committed suicide. The traditional family abode of the Urdu Poet, Firaq Gorakhpuri, whose birth centenary the nation is celebrating this year, fell prey to a land mafia.

Pathetic tales about the subsistence of the renowned singer Asgary Bai, a melody queen of yester-years, is passing her days in penury, with Shrieking headlines in the press, speak of her heart rending condition in her eighties. She was insistent on returning her 'Padam Shri', Shikhar Samman and Tansen Samman Awards, conferred on her, to press her demand for regular pension and essential supplies. In the Jan Satta of February 3, 1997, there appeared report under the caption, "Mujhe yeh ration har mahine bhejoge na?" Another report in an English daily around the same time carried a report under the head, "A neglected melody queen of yester years Utpala Sen makes her voice heard." These and other reports spoke of the pangs of penury she was suffering from.

This speaks volumes about the pangs of poverty suffered by renowned writers and artists in the absence any protection from Government and the society.

Hence this Bill.

VEENA VERMA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Authority. Clause 4 provides for registration etc. of the indigent writers and artists and clause 5 provides for establishment of Fund to be used for their and their wards' welfare. The Bill, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India. It is not possible at this stage to give the exact amount of expenditure which may be involved. However, it is estimated that an expenditure to the tune of fifty crores rupees may be involved as recurring expenditure per annum.

An amount to the tune of fifty crores rupees may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. The rules will relate to matters of details only.

The delegation of legislative power is, therefore, of normal character.

III

BILL No. XXIII OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act 1998. Short title

2. In article 356 of the Constitution,— Amendment of article 356.

(*a*) in clause (*3*),—

(*i*) for the words "resolutions of both Houses of Parliament", the words "a resolution of the House of the People" shall be substituted;

(*ii*) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that if in any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the people is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thrity days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been passed by the House of the People.";

(*b*) in clause (*4*),—

(*i*) in the first proviso, for the words, "both Houses of Parliament", the words "the House of the People" shall be substituted;

(*ii*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that if the dissolution of the House of the People takes place during any such period of six months and no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thrity days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been passed by the House of the People."

(*c*) in clause (*5*), for the words "either House of Parliament", the words "the House of the People" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under Article 356 of the Indian Constitution, the President may issue proclamation assuming to himself all or any of the functions of the State or otherwise, if the President is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the constitution.

Article 356(3) provides that every proclamation under this article shall be laid before each houses of Parliament and to be approved by the resolution of both Houses of Parliament. This will be a negation to the spirit of Article 356(1). Similarly proviso to clause (4) of article 356 requires approval of both Houses of Parliament through a resolution for continuance in force of such a Proclamation for a further period of six months. Article 356 is inserted only to safeguard the State Governments to function in accordance with the provisions of the constitution.

The House of People is consisting of representatives of the people whereas the Council of States is only a nominated body by the political parties. It has no role to play in this matter as is in the Finance Bill. The elected ruling party which enjoys majority in the House of People alone is competent to pass such a resolution.

To achieve the said objectives, clause (3) and (5) and proviso to clause (4) need amendments.

Hence the Bill.

R. MARGABANDU

IV

BILL No. XVII OF 1998

A Bill to amend the Land Acquisition (Tamil Nadu Amendment) Act, 1996.

WHEREAS acquisition and requisition of property including land is in the concurrent List of the Seventh Schedule to the Constitution of India vide entry 42 of that List on which the Parliament and State Legislatures can enact 5 laws;

WHEREAS in view of this enabling provision a Central Act although enacted way back in 1894 but has been amended from time to time;

WHEREAS in view of this authority the State Legislature of Tamil Nadu enacted the Land Acquisition (Tamil Nadu Amendment) Act, 1996 (16 of 1997);

WHEREAS the said Amendment Act of Tamil Nadu contains provisions repugnant to the provisions of an earlier law made by Parliament;

WHEREAS in view of the provisions contained in the proviso to clause (2) of article 254 of the Constitution of India, the Land Acquisition (Tamil Nadu Amendment) Act, 1996 is hereby amended.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Land Acquisition (Tamil Nadu Amendment) Amending, Act, 1998.

(2) It shall come into force with immediate effect.

Omission of section 9.

2. In the Land Acquisition (Tamil Nadu Amendment) Act, 1996 (hereinafter referred to as the principal Act) section **9** shall be omitted.

Amendment of section 10.

3. In section **10** of the principal Act, the words "and shall not be more than the amount claimed by the person interested" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Acquisition and requisition of property is under the concurrent list in the constitution of India.

The Land Acquisition Act 1894 was enacted by the Central Government.

The Central Act was further amended in the year 1984 providing various benefits to those whose lands were acquired by the Government for public purposes. In the said amendment time limit is fixed for compensation amount to be paid in stages.

Contrary to this spirit Tamil Nadu Government passed an Act inserting a new section 23-A after the Section 23 in the principal Act. Section 23-A, prohibits the payment of compensation amount to the land owner whose lands are acquired till the final disposal of the dispute in the highest forum. A reference under Section 18 will be made to the tribunal namely subordinate judge court against the said award appeal to the High Court and then to the Supreme Court. The finality of the case can be decided in appeal only by the Supreme Court which is the highest forum. Cases are pending for decades in trial court and High Court and several decades yet to be passed to see a finality in the Supreme Court. As per this provision the land owner who lost his land cannot see the compensation atleast for two generations. The intention of the amended Act of 1984 is to confer the benefit on the land owner who can receive his compensation within set time frame. This is the spirit of the amended Act 1984. This spirit has been taken away by Tamil Nadu Amendment Act Section 23 A.

In the original Central Act of 1894 Section 25 consisting of three sub clauses; creating a ban that the court cannot award more compensation than what was claimed by the interested party while giving statement under Section 9 of the said Act. In the Amended Act 1984 it has been amended. The amended Section 25 reads—"The amount of compensation awarded by the court shall not be less than the amount awarded by the collector under Section 11". By this amendment the original restriction imposed has been removed. But the original restriction was again introduced in the Tamil Nadu Amendment Act by adding the following word. "And shall not be more than the amount claimed by the person interested." This amendment is against the spirit of Central Amendment.

These amendments are inconsistent to the provisions of the Central Act and the laws made by the legislature of the state is repugnant. Challenging the Tamil Nadu Act Section 23-A & Section 25 several writ petitions have been filed in Madras High Court.

As per the proviso to article 254 (2) of the Constitution, the Parliament can repeal the State Amendment which is repugnant to the Central Act. So the Tamil Nadu Amendment Act Section 23-A has to be deleted and Sec. 25 is to be amended.

Hence this Bill.

R. MARGABANDU

V

BILL No. XXIV OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998. Short title.

2. In the Eighth Schedule to the Constitution of India, the existing entries 14 to 18 shall be renumbered as entries 15 to 19 respectively and before entry 15 as so renumbered, the following entry shall be inserted, namely:— Amendment of the Eighth Schedule.

"14. Rajasthani".

STATEMENT OF OBJECTS AND REASONS

There is a widespread popular demand for inclusion of Rajasthani language in the Eighth Schedule of the Constitution. The demand has every cultural, linguistic and literary justification. The inclusion of Rajasthani will in no way diminish or detract from the deep devotion of the people of Rajasthan to Hindi. On the other hand, the inclusion of Rajasthani in the Eighth Schedule will meet the cultural aspirations of millions of people who take pride in their language and literature which has flourished for many centuries as a part of the living tradition of Rajasthan and which the people of Rajasthan and those of Rajasthani origin would like to preserve. The richness of Rajasthani language and literature has been recognised by the Sahitya Akademi and the language and literature are taught and researched in many universities. It would be in the fitness of things to accord Rajasthani language a place of recognition in the Eighth Schedule to the Constitution.

DR. L. M. SINGHVI

VI

BILL NO. XXV OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998. Short title.

2. In article 124 of the Constitution, to clause (*1*), the following proviso shall be added, namely:— Amendment of article 124.

"Provided that the President shall, as soon as may be but not later than one year from the commencement of the Constitution (Amendment) Act, 1998, set up a permanent bench of the Supreme Court at Hyderabad, the Capital of the State of Andhra Pradesh, for providing cheaper and timely justice to the people of Andhra Pradesh and other Southern States of the Country."

STATEMENT OF OBJECTS AND REASONS

In the preamble of our Constitution the people of the Country, which is the largest democracy in the world, have resolved to secure to all its citizens—JUSTICE, social, economic and political. As such justice plays a vital role in our polity. Our Constitution and other laws give the citizens the right to seek legal redressal for any violation of their personal and democratic rights. For this purpose there is a three-tier judicial system i.e. District Courts, High Courts and Supreme Court. Whereas District Courts and High Courts are located within the States, the Supreme Court is located in New Delhi. The final destination for legal redressal is thus New Delhi which is quite far from the remote parts of the country particularly from the southern, eastern and north-eastern parts. This factor obviously denies the poor man to seek justice in the Supreme Court which involves considerable expenses and inconvenience. The agony of a litigant travelling from Hyderabad, Chennai, Bangalore, Thiruvananthapuram, Goa, Pondicherry etc. to New Delhi for litigation in Supreme Court can be imagined when he has to travel by train for days together spending considerable amount of money, wasting a lot of time, incurring loss if running a business establishment etc. only to find that his case has been adjourned for another day. Thus considering the vastness of the Country, the poverty of the people and high cost of litigation, it is necessary to establish a permanent bench of the Supreme Court in the south to provide easy, quick, cheap and timely justice to the people of that part of the country.

For this Hyderabad, the capital of Andhra Pradesh, is the most ideal place and it is a long standing demand of the people of Andhra Pradesh to have a permanent bench of the apex Court in the State. Now after completion of fifty years of independence, the time is ripe to fulfil the aspirations of the people of not only of Andhra Pradesh but of all the southern States by establishing a permanent bench of the Supreme Court at Hyderabad. It will not only break the monopoly of expensive advocates of the Supreme Court at New Delhi but will also provide easy, quick, cheap and timely justice to the people of Andhra Pradesh and adjoining southern States of the Indian Union.

Hence this Bill.

SOLIPETA RAMACHANDRA REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the establishment of a permanent bench of the Supreme Court of India at Hyderabad. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five crores may involve as recurring expenditure per annum.

A *non-recurring* expenditure of rupees *twenty five crores* may also involve for the purpose.

VII

BILL NO. XIX OF 1998

A Bill to provide for the viable working conditions for the handloom weavers by assuring subsidised regular supply of yarn and other raw materials, interest free consumption loans, insurance for the handlooms and the weavers, loans at nominal rates for purchasing yarn and other raw material from banks and other financial institutions, making it mandatory for the Governments and their departments to purchase its cloth requirements from primary handloom weavers and their co-operatives, and for certain other welfare measures to be undertaken by Central and State Governments and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Handloom Weavers (Viable Working Conditions and other Welfare Measures) Act, 1998.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(*b*) "Fund" means Handloom Weavers Welfare Fund established under section **4**;

(*c*) "handloom" includes any loom other than powerloom as has been defined in clause (*g*) of section **2** of the Factories Act, 1948; 63 of 1948.

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "weaver" means any person, irrespective of his sex or age, who is engaged in the production of cloth on a handloom and includes a person who owns, works or operates on a handloom for the production of cloth.

National policy for the welfare of handloom weavers.

3. The Central Government shall, as soon as may be, in consultation with the Governments of the States and Union Territories, frame a National policy for the welfare of handloom weavers and adopt it for implementation after it is discussed in both the Houses of Parliament.

Establishment of Handloom Weavers Welfare Fund.

4. (*1*) **The Central Government shall, as soon as may be, by notification in the official Gazette, establish a Handloom Weavers Welfare Fund which shall be managed by a Board of Trustees appointed under section 5.**

(2) **The Fund shall consist of—**

(*a*) **money given by the Central and State Governments, after due appropriation made by Parliament and Legislature of the State, as the case may be, from time to time;**

(*b*) **donations received from the general public or institutions;**

(*c*) **income generated from the assets or moneys of the Fund.**

Board of Trustees.

5. The Board of Trustees shall consist of—

(*a*) one Chairman and one Vice-Chairman to be nominated by the Central Government in consultation with the Governments of the States of Andhra Pradesh, Tamil Nadu, Karnataka and Uttar Pradesh which are having maximum number of handlooms and handloom weavers in the country;

(*b*) such number of other members as in the opinion of the Central Government are required to manage the Fund:

Provided that at least one half of the members shall be elected from the representatives of organisations devoted to safeguarding the interests of handloom weavers in the country.

Utilisation of Fund.

6. The fund shall be utilised for—

(*a*) giving interest free consumption loans to handloom weavers from time to time in such manner as may be prescribed;

(*b*) ex-gratia payments at the prescribed rates to the bereaved families of handloom weavers who die either in harness or prematurely;

(*c*) giving loans at nominal interest for purchasing yarn and other necessary raw material for the handloom;

(*d*) assuring the handlooms and handloom weavers in such manner as may be prescribed;

(*e*) such other welfare measures as the appropriate Government may be prescribed from time to time.

Provision for regular supply of yarn.

7. The Central Government and its agencies involved in the development of handloom shall ensure regular and uninterrupted supply of yarn to the handloom weavers at subsidised and affordable rates throughout the country and the State Government shall extend its full co-operation for the purpose.

Governmental agencies to purchase cloth requirements from primary handloom weavers and their co-operatives.

8. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government and all its departments and agencies shall purchase their cloth requirements for curtains, dusters, table cloth, furniture covers and such other things of office use exclusively from the primary handloom weavers and their co-operatives.

Separate agencies to monitor the needs and distress calls of the handloom weavers.

9. The appropriate Government shall establish separate agencies within its departments exclusively to monitor the needs and the distress calls of the handloom weavers in such manner as may be prescribed.

Educational facilities to the children of handloom weavers.

10. (*1*) The appropriate Government shall provide free and compulsory education including vocational education upto the senior secondary level to the children of handloom weavers.

(*2*) For carrying out the purposes of sub-section (*1*), the appropriate Government shall provide dresses including shoes and socks, books, writing materials and such other facilities to the children of handloom weavers as may be prescribed.

Financial institutions to provide easy loans to handloom weavers to eliminate private money lenders.

11. Notwithstanding anything contained in any other law for the time being in force, the public sector banking companies and other financial institutions shall provide easy loans at minimum interest rates to the handloom weavers so as to save them from being exploited by moneylenders and other unscrupulous elements in such manner as may be prescribed.

Appointment of personnel.

12. The appropriate Government shall appoint such number of officers and other personnel as it considers necessary for carrying out the purposes of this Act.

Overriding effect of the Act.

13. The provisions of this Act and of the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Andhra Pradesh produces finest varieties of handloom cloths appreciated throughout the world by the thousands and thousands of handloom weavers who have inherited the specialised art of weaving the cloth from their forefathers from generation to generation and it is their family profession as the entire family is involved in it. Similarly, there are lakhs of handloom units scattered throughout the country wherein millions of weavers produce finest handloom cloth to earn their livelihood and these units are mainly concentrated, apart from Andhra Pradesh in Tamil Nadu, Uttar Pradesh, Bihar, Madhya Pradesh, etc. Handloom sector plays a vital role for the survival as well as for the prosperity of not only the handloom weavers who produce cloth on handloom but also there are lakhs of people engaged in ancillary processes such as dying, bleaching, mercerising, calendering, embroidering, printing, packaging etc. In fact, for these people, handloom is the only source of livelihood. Similarly, handloom sector contributes the most in earning precious foreign exchange through exports as the Indian handloom cloth garments are very popular abroad.

Despite all this, the handloom sector is in a very precarious condition and it is at the verge of extinction mostly because of non-availability of cotton yarn at affordable prices and onslaught of the powerloom sector followed by many other reasons. The prices of cotton yarn which is the principal raw material for the handloom weavers, have gone up so high that it is impossible for the poor handloom weavers to purchase cotton yarn from the market and then produce the cloth. Unfortunately, even the costly cotton yarn is not available in required quantities because of its short supply and high export of cotton and cotton yarn. The other reasons are non-availability of easy loans from the banks and other financial institutions resulting in the exploitation of weavers by private moneylenders; non protection of the handloom sector by the Governments due to non purchase of handloom products by Governmental agencies resulting in its exploitation by private traders; absence of welfare fund for the handloom weavers and lukewarm response of authorities towards the plight of handloom weavers and towards the protection of their interests.

Similarly, every effort is being made by the powerloom sector to destroy the handloom sector. The powerloom sector is financially very strong and handloom sector can not match it in any manner. Way back in 1985, Union Parliament had enacted the Handlooms (Reservation of Articles for Production) Act, 1985 for the benefit of handloom sector but the powerloom sector has thwarted its implementation through various means including injunctions from the Courts. If this onslaught of powerloom sector is not prevented at this juncture, the handloom sector may vanish very soon which will not only affect the lakhs of handloom weavers' families but also millions of other people who survive on handloom sector. Our export too will get a severe jolt because of this.

Thus, the handloom sector is on the verge of extinction. In the recent past, the country was shaken when handloom weavers committed suicides. Even starvation deaths of handloom weavers were reported. Thus remedial measures to protect the handloom sector have to be taken on priority. The State Government of Andhra Pradesh has taken a lead in this regard. Many remedial and welfare measures have been taken to protect the handloom weavers in Andhra Pradesh but due to resources crunch, the State Government has its own limits. Similar is the position in other States. As such, the Central Government has to intervene for the survival of handloom sector. It is proposed in this Bill that a

welfare fund should be established for the handloom weavers; Government departments should purchase their cloth requirements either directly from handloom weavers or from their co-operatives; banks and financial institutions should provide easy loans to handloom weavers; the wards of handloom weavers should be given free education with other facilities and other welfare measures should be undertaken by Central and State Governments for the overall development of the handloom sector for which a National Policy is necessary.

Hence this Bill.

SOLIPETA RAMACHANDRA REDDY.

FINANCIAL MEMORANDUM

Clause **4** of the Bill provides for the establishment of handloom weavers welfare Fund. Clause **9** provides for separate agencies to monitor the needs and distress calls of the handloom weavers. Clause **10** provides for educational facilities for the children of handloom weavers. Clause **12** provides for the appointment of personnel for the purposes of this Bill. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of five hundred crores rupees may involve as recurring expenditure per annum.

A sum of one hundred crores rupees may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VIII

BILL NO. XVIII OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998. Short title.

2. After article 18 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 18A.

"18A. *(1)* **Every citizen shall have the right to adequate food.** Right to food.

(2) Parliament may by law provide—

(*a*) for the persons to whom the food shall be given free of cost or at subsidised rate and the manner in which food shall be provided to such persons;

(*b*) for the quality and quantity of food that shall be given to persons under clause (*a*);

(*c*) for the measures that shall be undertaken to make adequate food available to persons residing in areas affected by famine, floods, drought or by any other natural calamity and in all tribal areas having scarcity of food;

(*d*) for the methods and policies that shall be adopted to increase production of foodgrains; and

(*e*) for the method of distribution of foodgrains from one State having large production of foodgrains to another State where there is a scarcity of foodgrains."

STATEMENT OF OBJECTS AND REASONS

Food is one of the basic needs for survival of all living creatures on earth. Though article 47 of the Constitution provides that the State shall take steps to raise the level of nutrition of its people and improve public health but nothing has been done in this field so far.

Many Governments in the world recognise right to food as one of the most essential of all human rights and, as such, everyone has a right to adequate food. Hunger and malnutrition in our country reflects the most agonising dilemma of India as a welfare State. Many people, including children and women, die every year because of the twin problems of starvation and malnutrition in our country.

In our country, where drought, floods and famines are so common, freedom from hunger i.e. right to adequate food needs the special attention of the Government. Many districts in Orissa, Bihar, Andhra Pradesh face the acute problems of malnutrition and starvation every year. The agony of famine in Orissa compels parents to sell their children for the price of a day's meal which has put to naught the concept of India as a welfare State. Similar is the situation in areas affected by floods. The unprecedented floods in U.P., Bihar and other States has left lakhs of people homeless. Most often, in famine or flood affected areas, the State administration appears to be unconcerned about the happenings and, as such many persons die of starvation.

Although, every year, there is a bumper crop of foodgrains in the country, yet millions of people in the country have to sleep empty stomach. Therefore, there is need for evolving a policy envisaging just and equitable distribution of foodgrains in all parts of the country.

The Bill, therefore, seeks to make the right to food as a fundamental right so that citizens of India are not deprived of this basic need for their survival.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that every citizen shall have the right to adequate food. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five thousand crores from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crores is also likely to be incurred.

IX

BILL NO. XXII OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act 1998. Short title.

2. To Clause (*5*) of article 75 of the Constitution, the following proviso shall be added, namely:— Amendment of article 75.

"Provided that a person disqualified from the membership of the either House of Parliament under the tenth schedule shall not continue or become Minister under this clause unless he is again duly elected to the House".

3. To Clause (*4*) of article 164 of the Constitution, the following proviso shall be added, namely:— Amendment of article 164.

"Provided that a person disqualified from the membership of the either House of Legislature of a state under the tenth schedule shall not continue or become Minister under this clause unless he is again duly elected to the House".

Amendment of Tenth Schedule.

4. In the Tenth Schedule to the Constitution,—

(*i*) to paragraph 3 the following *Explanations* shall be added at the end namely:—

Explanation I:— For the purpose of this paragraph split shall be deemed to have taken place once a member claims that a split at a particular time has taken place in his original legislature party and not less than one-third members of the total members of the legislature party formed a group.

Explanation II:— The split shall be a one time phenomenon occurring at a particular point of time covering only those members who at that moment constituted the breakaway group and any number of members joining the already breakaway group at a subsequent time shall be treated as further division in the legislature party".

(*ii*) to paragraph 6 —

(*a*) in sub-paragraph (*1*) for the words "Chairman or, as the case may be, the speaker of such House" the words "President or as the case may be Governor" shall be substituted.

(*b*) for the existing proviso the following provisos shall be substituted, namely:—

"Provided that the President or as the case may be Governor shall decide the case in consultation with the Election Commission:

Provided further that the decision on the question of disqualification of a member shall be pronounced within two months of such reference".

(*iii*) After paragraph 7, the following paragraph shall be inserted, namely:—

"7A. *Removal of doubt*.—For the purpose of removal of doubt it is hereby clarified that an elected candidate shall be deemed to have been a member from the date of declaration of his result by the returning officer and the provisions of this schedule shall be deemed to be effective from that day".

STATEMENT OF OBJECTS AND REASONS

At present under the Constitution a person after being disqualified as a member is treated as qualified to be appointed as a minister or continues to be a minister under article 75(5) or 164(4) as it allows a person to be a minister for a period of six consecutive months even if he is not a member of either House of Parliament or State legislature. When these two provisions were incorporated, the idea of disqualification on the ground of defection was not in the picture at all. Propriety demands that a disqualified member should not be allowed to continue or become a minister and dismissed from Ministership in keeping with the spirit of the Constitution. Certain incident in the past at the centre and at state level showed that it is necessary to amend articles 75(5) and 164(4) to debar such a disqualified member to continue as a Minister or to become Minister even for six months unless he again gets duly elected as a member of Parliament or of State legislature, as the case may be.

The Tenth Schedule of the Constitution does not define a split. While amending the Constitution for the purpose of anti defection law, the intention was that split should be recognised once a member made a claim that there has been a split and not less than one third members of the legislature party formed a separate group. Further the interpretation that split can be a continuous process and can be stretched to a certain length of time is negating the very purpose of the Tenth Schedule. It is, therefore, necessary to define split under the Constitution. Of late a new interpretation is being put forward that an elected candidate may become a member only on the date of notification of the constitution of a house and not from the date he is declared elected by returning officer. If this new interpretation gains ground an elected candidate can, with impunity, change the party in the interim period between the date of the declaration of his election result by returning officer and the date on which the notification regarding the constitution of House is issued since during that period he will not be a member but only an elected candidate. In view of this it would be better to incorporate a clause for removing doubt that an elected candidate shall be and shall be deemed to have always been a member from the date he is declared elected by the returning officer otherwise there is possibility that the entire tenth schedule will become mockery.

Experience has shown that the power of the Presiding Officer to decide about the question relating to disqualification has always attracted controversy. It is, therefore, felt that this power should not be vested with the Presiding Officer instead this responsibility should be entrusted to the President or the Governor who shall decide each case in consultation with the Election Commission. Again there is no time limit by which a decision regarding disqualification of a member should be pronounced under the tenth schedule. Recent rulings of the Speaker in a few States took undue longtime in deciding the issues. This sometime defeated the very purpose of the schedule. Accordingly, the responsibility for deciding the issue of disqualification under the schedule has been given to the President for Members of Parliament and to the Governor for members of the state legislature who shall decide the case in consultation with the Election Commission. A time limit of two months has also been prescribed in the Bill to pronounce the decision.

The Bill seeks to achieve the aforesaid objects.

SAROJ KHAPARDE.

X

BILL NO. XXIX OF 1998

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Representation of the People (Amendment) Act, 1998.

Insertion of new section 8B.

2. After section 8A of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Disqualification for criminal activities.

8B. (*1*) Notwithstanding anything in section 8 of this Act or any other law for the time being in force, any person who has been convicted of an offence and sentenced to imprisonment for not less than six months shall be debarred from contesting any election held under the electoral laws for the time being in force.

(*2*) Any person who has been convicted of abetting any offence by competent court of law shall be disqualified from contesting any election held under the electoral laws for the time being in force.

(*3*) The Election Commission may cause investigation into the background of a candidate contesting any election under this Act, to establish whether a candidate's antecedents includes activities covered under sub-section (*1*) and (*2*) above.

Insertion of new section 29B.

3. After section 29A of the principal Act, the following section shall be inserted, namely:—

Derecognition of political parties for fielding candidate with criminal background.

"29B. Notwithstanding anything contained in any other law for the time being in force, if any political party registered under section 29A fields any person, having a criminal background as prescribed in section 8, 8A, and 8B of this Act, as its candidate in any election held under the electoral laws for the time being in force, the Election Commission shall cancel the registration of such political party after giving a reasonable opportunity to such political party of being heard by the Election Commission."

STATEMENT OF OBJECTS AND REASONS

In the recent past it has been observed that candidates with criminal background who either themselves indulge or support persons involved in anti-national activities have been contesting elections to Parliament and State Legislatures. For example, it has been reported that in the Delhi Assembly as many as 33 out of total 69 MLAs have criminal cases registered against them. As such the whole political system has been criminalised. These candidates belong to certain political parties which without enquiring about criminal backgrounds give tickets to them for contesting elections to Parliament and State Assemblies. Money power, muscle power and corrupt means also play important role in polluting the political system.

It is, therefore, proposed that no candidate with criminal background should be allowed to contest any election. Any party, which knowingly gives tickets to such candidates, should be de-registered/de-recognised. Such a step would cleanse the political system of its evils.

Hence the Bill.

DR. Y. LAKSHMI PRASAD

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Election Commission shall cause to investigate whether any of the candidates who are contesting election has been convicted of indulging in any criminal activities etc. The process of such investigation of contesting candidates may require the Election Commission to appoint some staff for the purpose. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees two lakh would be involved out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

XI

BILL No. XXVII OF 1998

A Bill further to amend the Trade and Merchandise Marks Act, 1958.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Trade and Merchandise Marks (Amendment) Act, 1998.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 34 of Act No. 43 of 1958.

2. For section 34 of the Trade and Merchandise Marks Act, 1958, the following section shall be substituted, namely:—

Saving for use of name, address or description of goods.

"34. Nothing in this Act shall, in the absence of contract, fraud or estoppel, entitle the proprietor or a registered user of a registered or unregistered trade mark to interfere with any use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business, of

any of his predessors in business, or the use by any person of any description of the character or quality of his goods and services.

Explanation: for the purposes of this section person includes any company or association or body of individuals whether incorporated or not [Sec. 3(42) of Genreal Clauses Act]."

STATEMENT OF OBJECTS AND REASONS

In our patriarchal society, at a minimum the only right which a father necessarily bestows upon his son is to carry the name. However, the recent cases of granting injunction to the use of the name as a trading style rob a person of his only minimal rightful inheritance, namely, his name and restrain him from using it legitimately even as a trading style, although our law in spirit and world allows him to use it as a Trade Mark too.

Recent trend of the businessmen trying to charge a royalty for use of a name simpliciter is a direct outcome of confusing decisions and interpretations by the Courts due to the mischief played by the word '*bonafide*' in Section 34 of the Trade and Merchandise Marks Act.

General trend worldwide is not to use personal names simpliciter as trade marks, as equity demands that every individual has a right to use his own name in his business in simpliciter form and more reputed or successful businessman cannot monopolise his name to the exclusion of others of that name. It is our public policy that we in India do not encourage any kind of monopoly. It is our public policy that we do not allow monopoly in use of a name as Trade Mark and by implication Trading Style too. If this were not public policy, S. 34 would not have found any place in Trade and Merchandise Marks Act. Monopoly of any kind is against public policy.

Passing off cases arising out of use of names of individuals has put in so much of discretionary powers in the judiciary due to the word '*bona fide*' that recently in two cases, contrary stands were taken by the same learned judge in High Court within a span of just 6 months. These cases are Aktiebolegat Volvo Vs. Volvo Steels Ltd. Notice of Motion 950 of 1995 decided on 28 April 1995 and Kirloskar Proprietary Limited Vs. Kirloskar Diesel Recon and Others (1152 of 1994) decided on 10 October 1995.

Generally, in passing off cases arising out of use of a name in trading style, courts have to be very careful about granting an injunction because once the temporary injunction is granted, it takes years and years for the case to be finally disposed of on evidence and the right of the aggrieved party is as good as permanently extinguished. To avoid such a misfortune to befall on defendants, it is necessary to remove the discretion altogether while deciding such cases and, therefore, it is necessary to amend Section 34 to the proposed format.

The Bill seeks to achieve the above objectives.

V. N GADGIL

XII

BILL NO. XX OF 1998

A Bill further to amend the constitution of India

BE it enacted by Parliament in the forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1998.

Amendment of article 80.

2. In article 80 of the Constitution,—

(*i*) for clasue (*3*) the following clause shall be substituted namely:—

"(*3*) The members to be nominated by the President under sub-clause (*a*) of clause (*1*) shall consist of persons having special knowledge or practical experience for not less than fifteen years in respect of such matters as the following namely:—

Literature, education, medicine, law, finance, agriculture, engineering, industry, environmental studies, art, social service and computer technology;"

(*ii*) in clause (*4*) for the words "elected members", the word "members" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The intention of the framers of the Constitution in making provision for nomination of members to the council of states by the President was to ensure that experts in various fields, who are not able to get themselves elected to either House of Parliament for any reason whatsoever, could enter the Council of States and contribute their expert knowledge to Parliamentary proceedings and debates.

In view of tremendous explosion of knowledge in several matters and to enable the President to have a wide field to choose the right candidates for nomination to the Council of States, it is proposed to widen the areas of discipline as provided at present in clause (3) of article 80 of the Constitution. It is also felt necessary that a minimum period of 15 years experience in the line should be necessary so as to be eligible for nomination to the Council of States as it would enable the Council to have the benefit of experience and wisdom of persons so nominated.

At present, the representatives of each State in the Council of States are elected by the elected members of the Legislative Assembly. The nominated members of the assembly do not exercise this right and have no power to participate in the election of their representatives to the Council of States. This, it is felt, gives unequal treatment to equal persons and as such discriminatory in law. Once a member is nominated to the legislative Assembly, he or she should get all the right, powers and privileges just like his elected counterpart in the Legislative Assembly. Therefore, in order to enable nominated members also to participate in the election of members to the Council of States, it is proposed to amend relevant article in the Constitution.

Hence this Bill.

P. PRABHAKAR REDDY.

XIII

BILL NO. XXI OF 1998

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1998. Short title.

2. After article 74 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 74A.

"74A. (*1*) After every general election to the House of the People, the President shall invite the leader of a political party or combination of political parties which has secured an absolute majority in the House of the People to form the Government: Formation of Government.

Provided that in case any political party or combination of political parties had not secured an absolute majority but if any other political party or parties support such political party or combination of political parties through a communication in wirting to the President by which the political party or combination of political parties can command majority support in the House of the People, the President shall invite the leader of such political party or combination of parties to form the Government.

(*2*) Where no political party or combination of political parties has secured an absolute majority in the House of People, the President shall invite the leader of the political party which has secured maximum number of seats in the general elections to the House of the People to form the Government, if any other political Party or parties do not oppose the formation of such a Government through a communication to the President in writing.

(*3*) Where the political party or combination of political parties which has formed the Government losses its majority in the House of the People due to split within such political party or combination of political parties or withdrawal of support by the supporting political party or parties, the President shall summon the House of the People and the Council of Ministers shall obtain confidence of the House of the People within three days from the date of occurrence of such split or withdrawal of support'".

Insertion of new article 163A.

3. After article **163** of the Constitution, the following article shall be inserted, namely:—

Formation of Government.

163A. (*1*) After every general election to the Legislative Assembly of the State, the Governor shall invite the leader of a political party or combination of political parties which has secured an absolute majority in the Legislative Assembly of the State to form the Government:

Provided that in case any political party or combination of political parties has not secured an absolute majorrity but if any other political party or parties support such political party or combination of political parties, through a communication in writing to the Governor by which the political party or combination of political parties can command majority support in the Legislative Assembly, the Governor shall invite the leader of such political party or combination of parties to form the Government.

(*2*) Where no political party or combination of political parties has secured an absolute majority in the Legislative Assembly of the State, the Governor shall invite the leader of the political Party which has secured maximum number of seats in the general elections to the Legislative Assembly of the State to form the Govenment, if any other political party or parties do not oppose the formation of such a Government through a communication to the Governor in writing.

(*3*) Where the political Party or combination of political Parties which has formed the Government loses its majority in the Legislative Assembly due to split within such political party or combination of political parties or withdrawal of support by the supporting political party or parties, the Governor shall summon the Legislative Assembly of the State and the Council of Ministers shall obtain confidence of the Legislative Assembly within three days from the date of occurrence of such split or withdrawal of support."

STATEMENT OF OBJECTS AND REASONS

In the recent past, it has been observed that after the general elections to the Lok Sabha and to the Legislative Assemblies, no political Party could secure an absolute majority in the House to form the Government. Even combination of parties could not muster enough support to form the Government themselves without the support of other parties. A new trend has been started wherein some parties support the Government from outside i.e. by not joining the Government. But the negative effect of this trend is that the supporting parties withdraw at their own will thereby creating a constitutional crisis in the State.

At present the scheme of the Constitution provides that the President of India has the discretion to appoint the Prime Minister and other Ministers. The Constitution does not provide for any sort of arrangement in a situation where no party or a combination of parties secure an absolute majority in the House or when the ruling party loses its majority and no other party is able to form the Government. Some times the ruling party loses its majority in the House within a short span after general elections and thus creating a situation where fresh elections have to be held resulting in unnecessary wastage of public money.

Moreover, when ruling party or combination of parties loses majority in the House due to split or withdrawal or support by other suppporting parties, enough time is allowed to such party or parties to prove majority in the House thus enabling "horse-trading".

It is, therefore, proposed to amend the Constitution to lay down the procedure in the formation of Government after General elections and to make certain arrangements in situations where any party does not secure an absolute majority in the house after general elections. Although these arrangements do not cover all sorts of situations, yet they will prove as a first step in the healthy democratic functioning.

Hence this Bill.

P. PRABHAKAR REDDY

XIV

BILL No. XXX OF 1998

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1998.

Substitution of new article for article 48A.

2. For article 48A of the Constitution, the following article shall be substituted namely:—

Protection and improvement of environment and safeguarding of forests and wildlife.

"**48A.** The State shall endeavour to protect and improve the environment so as to ensure a pollution free environment for its citizens; and to safeguard the forests and wild life of the country, and constitute such enforcement agencies as it considers necessary for implementing the provisions of this article".

Explanation:— For the purpose of this article, the expression "environment" means and includes water both surface and underground and also the territorial waters, air, and land including the surface of the earth, sub-soil and the forests (the flora and the fauna) and the inter relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms and property exclusive of mere amenities".

STATEMENT OF OBJECTS AND REASONS

India is a vast country with a huge population. Although there is a provision in the Constitution for protection of environment, yet it has not been achieved. Today, environment has been polluted so much that as a result half of our population tends to fall sick. Although Government has taken many steps to protect the environment, yet the efforts are to be supplemented by voluntary organisations and individuals.

The environment is polluted blatantly by many and there is no check on it. It is the duty of the Government to secure for the citizens a pollution free environment. It is, therefore, proposed to amend the Constitution to provide for a pollution free environment and to constitute enforcement agencies for checking environmental pollution.

Hence this Bill.

P. PRABHAKAR REDDY

R.C. TRIPATHI,
Secretary-General.

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